

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

DEMOCRATIC NATIONAL COMMITTEE,

Plaintiff,

v.

18 CV 3501

THE RUSSIAN FEDERATION, et  
al.,

Defendants.

New York, N.Y.  
September 13, 2018  
4:40 p.m.

Before:

HON. JOHN G. KOELTL,

District Judge

APPEARANCES

COHEN MILSTEIN SELLERS & TOLL  
Attorneys for Plaintiff

BY: JOSEPH M. SELLERS  
GEOFFREY A. GRABER  
ALISON DEICH  
JULIA ANN HORWITZ  
MICHAEL BENJAMIN EISENKRAFT

JONES DAY (DC)  
Attorneys for Defendant Donald J. Trump For President,  
Inc.  
BY: MICHAEL A. CARVIN  
JAMES MATTHEW GROSS

STRATEGYSMITH, P.A  
Attorneys for Defendant Stone  
BY: GRANT JEFFREY SMITH

CHADBOURNE & PARKE LLP  
Attorneys for Defendant Kushner  
BY: CHRISTOPHER D. MAN

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APPEARANCES (Cont'd)

PIERCE BAINBRIDGE BECK PRICE & HECHT LLP  
Attorneys for Defendant Papadopoulos  
BY: BY: CAROLINE JOHNSTON POLISI  
CHRISTOPHER NORMAN LAVIGNE

HERBERT SMITH FREEHILLS NEW YORK LLP  
Attorneys for Agalarov Defendants  
BY: SCOTT SONNY BALBER

1 (Case called)

2 THE DEPUTY CLERK: Will all parties please state who  
3 they are for the record.

4 MR. SELLERS: Good afternoon, your Honor. Joseph  
5 sellers representing the Democratic National Committee.

6 MR. GRABER: Geoffrey Graber, also on behalf of the  
7 Democratic National Committee.

8 MS. DEICH: Alison Deich also on behalf of the  
9 Democratic National Committee.

10 MS. HORWITZ: Julia Horwitz, also on behalf of the  
11 Democratic National Committee.

12 MR. EISENKRAFT: Michael Eisenkraft on behalf of the  
13 Democratic National Committee.

14 MR. CARVIN: Good afternoon, your Honor. Michael  
15 Carvin for Donald J. Trump For President, Inc.

16 MR. GROSS: Good afternoon, your Honor. James Gross  
17 for Donald J. Trump For President, Inc.

18 MR. SMITH: Good afternoon, your Honor. Grant Smith  
19 for Roger J. Stone, Jr.

20 MR. BALBER: Good afternoon, your Honor. Scott Balber  
21 for Aras Agalarov and Emin Agalarov.

22 THE COURT: Hold on one second.

23 MR. MAN: Good afternoon, your Honor. Chris Man for  
24 Jared Kushner.

25 MS. POLISI: Good afternoon, your Honor. Caroline

1 Polisi for George Papadopoulos.

2 MR. LAVIGNE: And Christopher Lavigne on behalf of  
3 George Papadopoulos.

4 THE COURT: Okay. Good afternoon, all.

5 I've reviewed the complaint. I also have the letter  
6 from plaintiff's counsel dated August 31, 2018. Plaintiff's  
7 counsel asks to file an amended complaint, and there are no  
8 objections to that.

9 Plaintiff's counsel asks for a premotion conference to  
10 make a motion to file an amended complaint, and there was no  
11 objection to that. I take it that there is no objection to  
12 filing an amended complaint. Okay.

13 When do you want to file an amended complaint?

14 MR. SELLERS: Your Honor, we'd like to file it on or  
15 before October 12.

16 THE COURT: Okay.

17 Plaintiffs want to file an amended complaint by  
18 October 12. Plaintiff may do that. I'll enter an order. A  
19 motion is not necessary.

20 The next step then is responses, either answers or  
21 motions, based upon the current complaint and what the  
22 plaintiff says is going to be in the amended complaint.

23 Is it the desire of the defendants to make motions or  
24 to file answers?

25 MR. CARVIN: Your Honor, Michael Carvin. Donald Trump

1 For President will be filing a motion to dismiss.

2 THE COURT: Have the parties talked about a proposed  
3 schedule?

4 MR. SELLERS: Yes, your Honor, we have. We have I  
5 think agreed on a proposed schedule in which I believe the  
6 opening motion would be filed within 90 days after the amended  
7 complaint.

8 THE COURT: I'm sorry? How long?

9 MR. SELLERS: Ninety days. That's the proposal.

10 THE COURT: Okay.

11 MR. SELLERS: We agreed on that as a proposal,  
12 your Honor. The response would be 90 days thereafter, and  
13 there would be a reply permitted 45 days after that. I believe  
14 Mr. Carvin and I agree on that.

15 MR. CARVIN: We agree to that, your Honor.

16 THE COURT: Could I ask, the reply is how long after  
17 that?

18 MR. CARVIN: Forty-five days after their opposition.

19 THE COURT: I have two difficulties with the schedule,  
20 even though the parties have agreed to it. The first problem I  
21 have is it is exceedingly long. The second problem I have is  
22 my usual practice is after the defendants have made a motion to  
23 dismiss, I give the plaintiffs an opportunity to file an  
24 amended complaint in response to the motion to dismiss, and the  
25 defendants may then file a motion to dismiss directed to the

1 amended complaint, and the original motion to dismiss is denied  
2 without prejudice.

3 Now, that probably can't preclude the defendants from  
4 making yet another motion to dismiss after there is another  
5 amended complaint, but it should reduce the number of opinions  
6 denying or granting in part motions to dismiss and having the  
7 defendants say, you know, if you grant the motion to dismiss,  
8 give us an opportunity to file yet another amended complaint.

9 So I would want the schedule to reflect after the  
10 first motion to dismiss is filed, the plaintiffs would have the  
11 opportunity, perhaps 30 days, to either file an amended  
12 complaint or say that they're going to respond to the motion to  
13 dismiss.

14 And under those circumstances, I assume that the  
15 plaintiffs will give me their best complaint; that they're  
16 going to tell me everything that they possibly can tell me in  
17 support of that complaint so that if I were to eventually grant  
18 the motion to dismiss after that process, the plaintiffs would  
19 not be coming to me and saying, I have something else that we  
20 really wanted to say and we didn't say.

21 So with that in mind, traditionally the parties would  
22 be able to come up with a reasonable schedule and give it to  
23 me. So I would think that the first motion to dismiss should  
24 be made within 60 days after the amended complaint and the  
25 plaintiffs would then advise within 30 days whether they're

1 filing an amended complaint or they're standing on their  
2 complaint and they're going to respond to the motion to  
3 dismiss.

4 If they responded to the motion to dismiss, they would  
5 then respond to the motion perhaps in 45 days. So you can work  
6 out the various parameters of that between you all and give me  
7 an agreed-upon schedule.

8 Is that satisfactory with everyone?

9 MR. SELLERS: That's fine with the plaintiff.

10 MR. CARVIN: That's fine with the Trump defendant,  
11 your Honor.

12 THE COURT: So I'll enter an order which says that the  
13 plaintiffs will file an amended complaint by October 12 and the  
14 parties will provide the Court with a scheduling order for  
15 responsive motions thereafter.

16 The parties will provide the scheduling order by --  
17 how about September 28? That should give you ample time to  
18 work that out.

19 MR. SELLERS: That's fine with us, your Honor.

20 THE COURT: Right, defendants?

21 MR. CARVIN: That's fine, your Honor.

22 THE COURT: Okay. Anything else I can do for you  
23 today?

24 MR. SELLERS: Your Honor --

25 THE COURT: Mr. Sellers.

1 MR. SELLERS: It may be premature to discuss it, but  
2 in connection with the motion practice, we'd like to propose  
3 that to the greatest extent possible, there be some kind of  
4 consolidated briefing on the motions to dismiss; that arguments  
5 that are similar might be presented in common fashion so we  
6 don't have a dozen motions.

7 THE COURT: Yes. I hope the defendants can work that  
8 out. Mr. Carvin can try and coordinate with the defendants. I  
9 appreciate that there are individual arguments that individual  
10 defendants may wish to make, but there is probably a lead brief  
11 that could be filed and then additional briefs by the other  
12 parties. I certainly hope you can avoid duplication. I hope  
13 you can promote brevity on both sides.

14 MR. CARVIN: Speaking only for my client, your Honor,  
15 what we were hoping to envision was perhaps a brief that covers  
16 most of the law, and we would take the lead on that.

17 But I think I speak for the other defendants. There  
18 are a myriad of different factual circumstances which need to  
19 be addressed by your Honor. I suppose there is also sovereign  
20 immunity and other issues that don't implicate us at all. But  
21 we will strive earnestly to give you a centralized legal  
22 briefing on what I would consider the common legal issues and  
23 have the other briefs only supplement.

24 THE COURT: I understand that there are separate legal  
25 arguments on behalf of some of the defendants. Just to the



1 extent possible, I would like to avoid duplication.

2 Anything else?

3 MR. SELLERS: Not from the Democratic  
4 National Committee, your Honor. Thank you.

5 MR. CARVIN: Your Honor, perhaps one clarification.

6 THE COURT: Sure.

7 MR. CARVIN: In light of your decision on the motion  
8 to dismiss, will we need a premotion conference?

9 THE COURT: No.

10 MR. CARVIN: I just wanted to clarify that. Thank  
11 you.

12 THE COURT: The reason for the premotion conference is  
13 to attempt to clarify the issues, to determine whether an  
14 amended complaint could possibly resolve the motions to  
15 dismiss. And with the schedule that I've set out for you, that  
16 resolves the issue of the need for the premotion conference.  
17 But thank you for raising it.

18 Anything else from anyone? No. Okay. Good to see  
19 you all.

20 (Adjourned)